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August 23, 2005

Eric Thompson  
 Children's Rights Incorporated  
 404 Park Avenue South  
 New York, NY 10016

RE: *James D. Johnson, et al. v. Haley Barbour, et al;* In the United States  
 District Court for the Southern District of Mississippi, Jackson Division;  
 Cause No. 3:04CV251LN

Dear Mr. Thompson:

This letter is in response to yours of August 17, 2005, which discusses alleged deficiencies in Defendants' discovery production for Fifth Request for Production of Documents as set forth in your letter of June 30, 2005.

As for Document Request No. 3, the Defendants have produced the MDHS Policy and Procedures Manual. MDHS also maintains this policy and procedures manual in MACWIS. We will produce the manual as maintained in MACWIS with the next quarterly supplementation.

As for Document Request No. 9, Defendants have objected to this request as overly broad and unduly burdensome in that the request would require Defendants to produce all files for all foster care providers, including foster homes, therapeutic foster homes, group homes, shelters, treatment centers and others providing care for foster children over a three-year period. As the DHS Placement Resources Document (Bates No. DHS 035980-036100) demonstrates, there are numerous MDHS placement resources. Records for these placement resources may be maintained at the state office, county offices, group homes, treatment centers, and other agencies. As the magistrate judge has determined, Defendants have a duty to produce records as they are and where they are. The Plaintiffs should narrow their request to specify which documents are requested. Your letter of August 17, 2005, suggests that Plaintiffs are interested in reports on dangerous placement forms, incident reports for group homes, and critical or unusual incident reports. Please clarify whether Plaintiffs are seeking the production of each and every file maintained regarding out-of-home placements or just the reports on dangerous placements forms, incident reports, and critical or unusual incident reports for each of the out-of-home placement source.

As for Request No. 10, Defendants supplemented their response on July 14, 2005, and produced seventeen (17) additional documents to Plaintiffs. Your letter of August 17, 2005, does not state what, if any, deficiencies exist.

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As for Document Request No. 12 and No. 13, please be advised that state law (Miss. Code Ann. § 25-1-100) exempts from disclosure personnel records in the possession of a public body unless the affected employee provides prior written consent. We maintain that these records are confidential in the absence of a court order. If you have legal authority to the contrary, please forward it to my attention immediately.

Sincerely,

McGlinchey Stafford, PLLC



Betty A. Mallett

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